

AMENDED IN SENATE JUNE 3, 2014
AMENDED IN ASSEMBLY MARCH 17, 2014
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1511

Introduced by Assembly Member Beth Gaines

January 14, 2014

An act to amend ~~Sections 11105 and~~ *Section 13300* of, *and to add Section 11105.07 to*, the Penal Code, relating to criminal history information.

LEGISLATIVE COUNSEL'S DIGEST

AB 1511, as amended, Beth Gaines. Criminal history information: animal control officers.

Existing law requires the Department of Justice to maintain state summary criminal history information, including the identification and criminal history of any person, which may include his or her name, date of birth, physical description, fingerprints, photographs, dates of arrest, arresting agencies and booking numbers, charges, dispositions, and similar data about the person. Existing law authorizes the department, upon a showing of compelling need, to furnish this information in response to a request from certain authorized agencies, organizations, or individuals, including a public utility.

Existing law similarly provides for the disclosure of local summary criminal history information by a local criminal justice agency, upon a showing of compelling need, to certain authorized agencies, organizations, or individuals.

Existing law makes it a misdemeanor for a person authorized by law to receive state summary criminal history information to knowingly furnish it to a person not authorized by law to receive it.

This bill would additionally authorize the Department of Justice and local criminal justice agencies to provide state and local summary criminal history information to an animal control officer ~~employed by a city, county, or city and county~~ for the purposes of performing his or her official duties. *The bill would require the Department of Justice to provide this information to the animal control officer in a timely manner and would prohibit an animal control officer who receives that information from using it for any purpose other than the performance of his or her official duties.* The bill would permit a local agency to charge a reasonable fee sufficient to cover the costs of providing that information. By requiring local criminal justice agencies to provide this information *and by expanding the scope of a crime*, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified ~~reason~~. *reasons*.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 11105 of the Penal Code is amended to~~
2 ~~read:~~
3 ~~11105. (a) (1) The Department of Justice shall maintain state~~
4 ~~summary criminal history information.~~
5 ~~(2) As used in this section:~~
6 ~~(A) "State summary criminal history information" means the~~
7 ~~master record of information compiled by the Attorney General~~
8 ~~pertaining to the identification and criminal history of any person,~~
9 ~~such as name, date of birth, physical description, fingerprints,~~
10 ~~photographs, dates of arrests, arresting agencies and booking~~
11 ~~numbers, charges, dispositions, and similar data about the person.~~
12 ~~(B) "State summary criminal history information" does not refer~~
13 ~~to records and data compiled by criminal justice agencies other~~
14 ~~than the Attorney General, nor does it refer to records of complaints~~

1 ~~to or investigations conducted by, or records of intelligence~~
2 ~~information or security procedures of, the office of the Attorney~~
3 ~~General and the Department of Justice.~~

4 (b) ~~The Attorney General shall furnish state summary criminal~~
5 ~~history information to any of the following, if needed in the course~~
6 ~~of their duties, provided that when information is furnished to~~
7 ~~assist an agency, officer, or official of state or local government,~~
8 ~~a public utility, or any other entity, in fulfilling employment,~~
9 ~~certification, or licensing duties, Chapter 1321 of the Statutes of~~
10 ~~1974 and Section 432.7 of the Labor Code shall apply:~~

11 ~~(1) The courts of the state.~~

12 ~~(2) Peace officers of the state, as defined in Section 830.1,~~
13 ~~subdivisions (a) and (c) of Section 830.2, subdivision (a) of Section~~
14 ~~830.3, subdivisions (a) and (b) of Section 830.5, and subdivision~~
15 ~~(a) of Section 830.31.~~

16 ~~(3) District attorneys of the state.~~

17 ~~(4) Prosecuting city attorneys of any city within the state.~~

18 ~~(5) City attorneys pursuing civil gang injunctions pursuant to~~
19 ~~Section 186.22a, or drug abatement actions pursuant to Section~~
20 ~~3479 or 3480 of the Civil Code, or Section 11571 of the Health~~
21 ~~and Safety Code.~~

22 ~~(6) Probation officers of the state.~~

23 ~~(7) Parole officers of the state.~~

24 ~~(8) A public defender or attorney of record when representing~~
25 ~~a person in proceedings upon a petition for a certificate of~~
26 ~~rehabilitation and pardon pursuant to Section 4852.08.~~

27 ~~(9) A public defender or attorney of record when representing~~
28 ~~a person in a criminal case, or a parole, mandatory supervision~~
29 ~~pursuant to paragraph (5) of subdivision (h) of Section 1170, or~~
30 ~~postrelease community supervision revocation or revocation~~
31 ~~extension proceeding, and if authorized access by statutory or~~
32 ~~decisional law.~~

33 ~~(10) Any agency, officer, or official of the state if the criminal~~
34 ~~history information is required to implement a statute or regulation~~
35 ~~that expressly refers to specific criminal conduct applicable to the~~
36 ~~subject person of the state summary criminal history information,~~
37 ~~and contains requirements or exclusions, or both, expressly based~~
38 ~~upon that specified criminal conduct. The agency, officer, or~~
39 ~~official of the state authorized by this paragraph to receive state~~
40 ~~summary criminal history information may also transmit fingerprint~~

1 images and related information to the Department of Justice to be
2 transmitted to the Federal Bureau of Investigation.

3 ~~(11) Any city or county, city and county, district, or any officer~~
4 ~~or official thereof if access is needed in order to assist that agency,~~
5 ~~officer, or official in fulfilling employment, certification, or~~
6 ~~licensing duties, and if the access is specifically authorized by the~~
7 ~~city council, board of supervisors, or governing board of the city,~~
8 ~~county, or district if the criminal history information is required~~
9 ~~to implement a statute, ordinance, or regulation that expressly~~
10 ~~refers to specific criminal conduct applicable to the subject person~~
11 ~~of the state summary criminal history information, and contains~~
12 ~~requirements or exclusions, or both, expressly based upon that~~
13 ~~specified criminal conduct. The city or county, city and county,~~
14 ~~district, or the officer or official thereof authorized by this~~
15 ~~paragraph may also transmit fingerprint images and related~~
16 ~~information to the Department of Justice to be transmitted to the~~
17 ~~Federal Bureau of Investigation.~~

18 ~~(12) The subject of the state summary criminal history~~
19 ~~information under procedures established under Article 5~~
20 ~~(commencing with Section 11120).~~

21 ~~(13) Any person or entity when access is expressly authorized~~
22 ~~by statute if the criminal history information is required to~~
23 ~~implement a statute or regulation that expressly refers to specific~~
24 ~~criminal conduct applicable to the subject person of the state~~
25 ~~summary criminal history information, and contains requirements~~
26 ~~or exclusions, or both, expressly based upon that specified criminal~~
27 ~~conduct.~~

28 ~~(14) Health officers of a city, county, city and county, or district~~
29 ~~when in the performance of their official duties enforcing Section~~
30 ~~120175 of the Health and Safety Code.~~

31 ~~(15) Any managing or supervising correctional officer of a~~
32 ~~county jail or other county correctional facility.~~

33 ~~(16) Any humane society, or society for the prevention of cruelty~~
34 ~~to animals, for the specific purpose of complying with Section~~
35 ~~14502 of the Corporations Code for the appointment of humane~~
36 ~~officers.~~

37 ~~(17) Local child support agencies established by Section 17304~~
38 ~~of the Family Code. When a local child support agency closes a~~
39 ~~support enforcement case containing summary criminal history~~
40 ~~information, the agency shall delete or purge from the file and~~

1 ~~destroy any documents or information concerning or arising from~~
2 ~~offenses for or of which the parent has been arrested, charged, or~~
3 ~~convicted, other than for offenses related to the parent's having~~
4 ~~failed to provide support for minor children, consistent with the~~
5 ~~requirements of Section 17531 of the Family Code.~~

6 ~~(18) County child welfare agency personnel who have been~~
7 ~~delegated the authority of county probation officers to access state~~
8 ~~summary criminal history information pursuant to Section 272 of~~
9 ~~the Welfare and Institutions Code for the purposes specified in~~
10 ~~Section 16504.5 of the Welfare and Institutions Code. Information~~
11 ~~from criminal history records provided pursuant to this subdivision~~
12 ~~shall not be used for any purposes other than those specified in~~
13 ~~this section and Section 16504.5 of the Welfare and Institutions~~
14 ~~Code. When an agency obtains records obtained both on the basis~~
15 ~~of name checks and fingerprint checks, final placement decisions~~
16 ~~shall be based only on the records obtained pursuant to the~~
17 ~~fingerprint check.~~

18 ~~(19) The court of a tribe, or court of a consortium of tribes, that~~
19 ~~has entered into an agreement with the state pursuant to Section~~
20 ~~10553.1 of the Welfare and Institutions Code. This information~~
21 ~~may be used only for the purposes specified in Section 16504.5~~
22 ~~of the Welfare and Institutions Code and for tribal approval or~~
23 ~~tribal licensing of foster care or adoptive homes. Article 6~~
24 ~~(commencing with Section 11140) shall apply to officers, members,~~
25 ~~and employees of a tribal court receiving criminal record offender~~
26 ~~information pursuant to this section.~~

27 ~~(20) Child welfare agency personnel of a tribe or consortium~~
28 ~~of tribes that has entered into an agreement with the state pursuant~~
29 ~~to Section 10553.1 of the Welfare and Institutions Code and to~~
30 ~~whom the state has delegated duties under paragraph (2) of~~
31 ~~subdivision (a) of Section 272 of the Welfare and Institutions Code.~~
32 ~~The purposes for use of the information shall be for the purposes~~
33 ~~specified in Section 16504.5 of the Welfare and Institutions Code~~
34 ~~and for tribal approval or tribal licensing of foster care or adoptive~~
35 ~~homes. When an agency obtains records on the basis of name~~
36 ~~checks and fingerprint checks, final placement decisions shall be~~
37 ~~based only on the records obtained pursuant to the fingerprint~~
38 ~~check. Article 6 (commencing with Section 11140) shall apply to~~
39 ~~child welfare agency personnel receiving criminal record offender~~
40 ~~information pursuant to this section.~~

~~(21) An officer providing conservatorship investigations pursuant to Sections 5351, 5354, and 5356 of the Welfare and Institutions Code.~~

~~(22) A court investigator providing investigations or reviews in conservatorships pursuant to Section 1826, 1850, 1851, or 2250.6 of the Probate Code.~~

~~(23) A person authorized to conduct a guardianship investigation pursuant to Section 1513 of the Probate Code.~~

~~(24) A humane officer appointed pursuant to Section 14502 of the Corporations Code for the purposes of performing his or her duties.~~

~~(25) A public agency described in subdivision (b) of Section 15975 of the Government Code, for the purpose of oversight and enforcement policies with respect to its contracted providers.~~

~~(e) The Attorney General may furnish state summary criminal history information and, when specifically authorized by this subdivision, federal level criminal history information, upon a showing of a compelling need to any of the following, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any other entity in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:~~

~~(1) Any public utility, as defined in Section 216 of the Public Utilities Code, that operates a nuclear energy facility when access is needed in order to assist in employing persons to work at the facility, provided that, if the Attorney General supplies the data, he or she shall furnish a copy of the data to the person to whom the data relates.~~

~~(2) To a peace officer of the state other than those included in subdivision (b).~~

~~(3) To an illegal dumping enforcement officer as defined in subdivision (j) of Section 830.7.~~

~~(4) To an animal control officer employed by a city, county, or city and county, for purposes of performing his or her official duties.~~

~~(5) To a peace officer of another country.~~

~~(6) To public officers, other than peace officers, of the United States, other states, or possessions or territories of the United States, provided that access to records similar to state summary~~

1 criminal history information is expressly authorized by a statute
2 of the United States, other states, or possessions or territories of
3 the United States if the information is needed for the performance
4 of their official duties.

5 (7) To any person when disclosure is requested by a probation,
6 parole, or peace officer with the consent of the subject of the state
7 summary criminal history information and for purposes of
8 furthering the rehabilitation of the subject.

9 (8) The courts of the United States, other states, or territories
10 or possessions of the United States.

11 (9) Peace officers of the United States, other states, or territories
12 or possessions of the United States.

13 (10) To any individual who is the subject of the record requested
14 if needed in conjunction with an application to enter the United
15 States or any foreign nation.

16 (11) (A) (i) Any public utility, as defined in Section 216 of the
17 Public Utilities Code, or any cable corporation as defined in
18 subparagraph (B), if receipt of criminal history information is
19 needed in order to assist in employing current or prospective
20 employees, contract employees, or subcontract employees who,
21 in the course of their employment may be seeking entrance to
22 private residences or adjacent grounds. The information provided
23 shall be limited to the record of convictions and any arrest for
24 which the person is released on bail or on his or her own
25 recognizance pending trial.

26 (ii) If the Attorney General supplies the data pursuant to this
27 paragraph, the Attorney General shall furnish a copy of the data
28 to the current or prospective employee to whom the data relates.

29 (iii) Any information obtained from the state summary criminal
30 history is confidential and the receiving public utility or cable
31 corporation shall not disclose its contents, other than for the
32 purpose for which it was acquired. The state summary criminal
33 history information in the possession of the public utility or cable
34 corporation and all copies made from it shall be destroyed not
35 more than 30 days after employment or promotion or transfer is
36 denied or granted, except for those cases where a current or
37 prospective employee is out on bail or on his or her own
38 recognizance pending trial, in which case the state summary
39 criminal history information and all copies shall be destroyed not
40 more than 30 days after the case is resolved.

~~(iv) A violation of this paragraph is a misdemeanor, and shall give the current or prospective employee who is injured by the violation a cause of action against the public utility or cable corporation to recover damages proximately caused by the violations. Any public utility's or cable corporation's request for state summary criminal history information for purposes of employing current or prospective employees who may be seeking entrance to private residences or adjacent grounds in the course of their employment shall be deemed a "compelling need" as required to be shown in this subdivision.~~

~~(v) Nothing in this section shall be construed as imposing any duty upon public utilities or cable corporations to request state summary criminal history information on any current or prospective employees.~~

~~(B) For purposes of this paragraph, "cable corporation" means any corporation or firm that transmits or provides television, computer, or telephone services by cable, digital, fiber optic, satellite, or comparable technology to subscribers for a fee.~~

~~(C) Requests for federal level criminal history information received by the Department of Justice from entities authorized pursuant to subparagraph (A) shall be forwarded to the Federal Bureau of Investigation by the Department of Justice. Federal level criminal history information received or compiled by the Department of Justice may then be disseminated to the entities referenced in subparagraph (A), as authorized by law.~~

~~(D) (i) Authority for a cable corporation to request state or federal level criminal history information under this paragraph shall commence July 1, 2005.~~

~~(ii) Authority for a public utility to request federal level criminal history information under this paragraph shall commence July 1, 2005.~~

~~(12) To any campus of the California State University or the University of California, or any four year college or university accredited by a regional accreditation organization approved by the United States Department of Education, if needed in conjunction with an application for admission by a convicted felon to any special education program for convicted felons, including, but not limited to, university alternatives and halfway houses. Only conviction information shall be furnished. The college or university may require the convicted felon to be fingerprinted, and any inquiry~~

1 to the department under this section shall include the convicted
2 felon's fingerprints and any other information specified by the
3 department.

4 (13) To any foreign government, if requested by the individual
5 who is the subject of the record requested, if needed in conjunction
6 with the individual's application to adopt a minor child who is a
7 citizen of that foreign nation. Requests for information pursuant
8 to this paragraph shall be in accordance with the process described
9 in Sections 11122 to 11124, inclusive. The response shall be
10 provided to the foreign government or its designee and to the
11 individual who requested the information.

12 (d) Whenever an authorized request for state summary criminal
13 history information pertains to a person whose fingerprints are on
14 file with the Department of Justice and the department has no
15 criminal history of that person, and the information is to be used
16 for employment, licensing, or certification purposes, the fingerprint
17 card accompanying the request for information, if any, may be
18 stamped "no criminal record" and returned to the person or entity
19 making the request.

20 (e) Whenever state summary criminal history information is
21 furnished as the result of an application and is to be used for
22 employment, licensing, or certification purposes, the Department
23 of Justice may charge the person or entity making the request a
24 fee that it determines to be sufficient to reimburse the department
25 for the cost of furnishing the information. In addition, the
26 Department of Justice may add a surcharge to the fee to fund
27 maintenance and improvements to the systems from which the
28 information is obtained. Notwithstanding any other law, any person
29 or entity required to pay a fee to the department for information
30 received under this section may charge the applicant a fee sufficient
31 to reimburse the person or entity for this expense. All moneys
32 received by the department pursuant to this section, Sections
33 11105.3 and 26190, and former Section 13588 of the Education
34 Code shall be deposited in a special account in the General Fund
35 to be available for expenditure by the department to offset costs
36 incurred pursuant to those sections and for maintenance and
37 improvements to the systems from which the information is
38 obtained upon appropriation by the Legislature.

39 (f) Whenever there is a conflict, the processing of criminal
40 fingerprints and fingerprints of applicants for security guard or

1 ~~alarm-agent registrations or firearms qualification permits~~
2 ~~submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4~~
3 ~~of the Business and Professions Code shall take priority over the~~
4 ~~processing of other applicant fingerprints.~~

5 ~~(g) It is not a violation of this section to disseminate statistical~~
6 ~~or research information obtained from a record, provided that the~~
7 ~~identity of the subject of the record is not disclosed.~~

8 ~~(h) It is not a violation of this section to include information~~
9 ~~obtained from a record in (1) a transcript or record of a judicial or~~
10 ~~administrative proceeding or (2) any other public record if the~~
11 ~~inclusion of the information in the public record is authorized by~~
12 ~~a court, statute, or decisional law.~~

13 ~~(i) Notwithstanding any other law, the Department of Justice~~
14 ~~or any state or local law enforcement agency may require the~~
15 ~~submission of fingerprints for the purpose of conducting summary~~
16 ~~criminal history information checks that are authorized by law.~~

17 ~~(j) The state summary criminal history information shall include~~
18 ~~any finding of mental incompetence pursuant to Chapter 6~~
19 ~~(commencing with Section 1367) of Title 10 of Part 2 arising out~~
20 ~~of a complaint charging a felony offense specified in Section 290.~~

21 ~~(k) (1) This subdivision shall apply whenever state or federal~~
22 ~~summary criminal history information is furnished by the~~
23 ~~Department of Justice as the result of an application by an~~
24 ~~authorized agency or organization and the information is to be~~
25 ~~used for peace officer employment or certification purposes. As~~
26 ~~used in this subdivision, a peace officer is defined in Chapter 4.5~~
27 ~~(commencing with Section 830) of Title 3 of Part 2.~~

28 ~~(2) Notwithstanding any other provision of law, whenever state~~
29 ~~summary criminal history information is initially furnished~~
30 ~~pursuant to paragraph (1), the Department of Justice shall~~
31 ~~disseminate the following information:~~

32 ~~(A) Every conviction rendered against the applicant.~~

33 ~~(B) Every arrest for an offense for which the applicant is~~
34 ~~presently awaiting trial, whether the applicant is incarcerated or~~
35 ~~has been released on bail or on his or her own recognizance~~
36 ~~pending trial.~~

37 ~~(C) Every arrest or detention, except for an arrest or detention~~
38 ~~resulting in an exoneration, provided, however, that where the~~
39 ~~records of the Department of Justice do not contain a disposition~~

1 for the arrest, the Department of Justice first makes a genuine effort
2 to determine the disposition of the arrest.

3 ~~(D) Every successful diversion.~~

4 ~~(E) Every date and agency name associated with all retained~~
5 ~~peace officer or nonsworn law enforcement agency employee~~
6 ~~preemployment criminal offender record information search~~
7 ~~requests.~~

8 ~~(l) (1) This subdivision shall apply whenever state or federal~~
9 ~~summary criminal history information is furnished by the~~
10 ~~Department of Justice as the result of an application by a criminal~~
11 ~~justice agency or organization as defined in Section 13101, and~~
12 ~~the information is to be used for criminal justice employment,~~
13 ~~licensing, or certification purposes.~~

14 ~~(2) Notwithstanding any other provision of law, whenever state~~
15 ~~summary criminal history information is initially furnished~~
16 ~~pursuant to paragraph (1), the Department of Justice shall~~
17 ~~disseminate the following information:~~

18 ~~(A) Every conviction rendered against the applicant.~~

19 ~~(B) Every arrest for an offense for which the applicant is~~
20 ~~presently awaiting trial, whether the applicant is incarcerated or~~
21 ~~has been released on bail or on his or her own recognizance~~
22 ~~pending trial.~~

23 ~~(C) Every arrest for an offense for which the records of the~~
24 ~~Department of Justice do not contain a disposition or did not result~~
25 ~~in a conviction, provided that the Department of Justice first makes~~
26 ~~a genuine effort to determine the disposition of the arrest. However,~~
27 ~~information concerning an arrest shall not be disclosed if the~~
28 ~~records of the Department of Justice indicate or if the genuine~~
29 ~~effort reveals that the subject was exonerated, successfully~~
30 ~~completed a diversion or deferred entry of judgment program, or~~
31 ~~the arrest was deemed a detention.~~

32 ~~(D) Every date and agency name associated with all retained~~
33 ~~peace officer or nonsworn law enforcement agency employee~~
34 ~~preemployment criminal offender record information search~~
35 ~~requests.~~

36 ~~(m) (1) This subdivision shall apply whenever state or federal~~
37 ~~summary criminal history information is furnished by the~~
38 ~~Department of Justice as the result of an application by an~~
39 ~~authorized agency or organization pursuant to Section 1522,~~
40 ~~1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or~~

1 any statute that incorporates the criteria of any of those sections
2 or this subdivision by reference, and the information is to be used
3 for employment, licensing, or certification purposes.

4 (2) Notwithstanding any other provision of law, whenever state
5 summary criminal history information is initially furnished
6 pursuant to paragraph (1), the Department of Justice shall
7 disseminate the following information:

8 (A) Every conviction of an offense rendered against the
9 applicant.

10 (B) Every arrest for an offense for which the applicant is
11 presently awaiting trial, whether the applicant is incarcerated or
12 has been released on bail or on his or her own recognizance
13 pending trial.

14 (C) Every arrest for an offense for which the Department of
15 Social Services is required by paragraph (1) of subdivision (a) of
16 Section 1522 of the Health and Safety Code to determine if an
17 applicant has been arrested. However, if the records of the
18 Department of Justice do not contain a disposition for an arrest,
19 the Department of Justice shall first make a genuine effort to
20 determine the disposition of the arrest.

21 (3) Notwithstanding the requirements of the sections referenced
22 in paragraph (1) of this subdivision, the Department of Justice
23 shall not disseminate information about an arrest subsequently
24 deemed a detention or an arrest that resulted in either the successful
25 completion of a diversion program or exoneration.

26 (n) (1) This subdivision shall apply whenever state or federal
27 summary criminal history information, to be used for employment,
28 licensing, or certification purposes, is furnished by the Department
29 of Justice as the result of an application by an authorized agency,
30 organization, or individual pursuant to any of the following:

31 (A) Paragraph (11) of subdivision (c), when the information is
32 to be used by a cable corporation.

33 (B) Section 11105.3 or 11105.4.

34 (C) Section 15660 of the Welfare and Institutions Code.

35 (D) Any statute that incorporates the criteria of any of the
36 statutory provisions listed in subparagraph (A), (B), or (C), or of
37 this subdivision, by reference.

38 (2) With the exception of applications submitted by
39 transportation companies authorized pursuant to Section 11105.3,
40 and notwithstanding any other provision of law, whenever state

1 summary criminal history information is initially furnished
2 pursuant to paragraph (1), the Department of Justice shall
3 disseminate the following information:

4 (A) Every conviction rendered against the applicant for a
5 violation or attempted violation of any offense specified in
6 subdivision (a) of Section 15660 of the Welfare and Institutions
7 Code. However, with the exception of those offenses for which
8 registration is required pursuant to Section 290, the Department
9 of Justice shall not disseminate information pursuant to this
10 subdivision unless the conviction occurred within 10 years of the
11 date of the agency's request for information or the conviction is
12 over 10 years old but the subject of the request was incarcerated
13 within 10 years of the agency's request for information.

14 (B) Every arrest for a violation or attempted violation of an
15 offense specified in subdivision (a) of Section 15660 of the Welfare
16 and Institutions Code for which the applicant is presently awaiting
17 trial, whether the applicant is incarcerated or has been released on
18 bail or on his or her own recognizance pending trial.

19 (c) (1) This subdivision shall apply whenever state or federal
20 summary criminal history information is furnished by the
21 Department of Justice as the result of an application by an
22 authorized agency or organization pursuant to Section 379 or 1300
23 of the Financial Code, or any statute that incorporates the criteria
24 of either of those sections or this subdivision by reference, and the
25 information is to be used for employment, licensing, or certification
26 purposes.

27 (2) Notwithstanding any other provision of law, whenever state
28 summary criminal history information is initially furnished
29 pursuant to paragraph (1), the Department of Justice shall
30 disseminate the following information:

31 (A) Every conviction rendered against the applicant for a
32 violation or attempted violation of any offense specified in Section
33 1300 of the Financial Code.

34 (B) Every arrest for a violation or attempted violation of an
35 offense specified in Section 1300 of the Financial Code for which
36 the applicant is presently awaiting trial, whether the applicant is
37 incarcerated or has been released on bail or on his or her own
38 recognizance pending trial.

39 (p) (1) This subdivision shall apply whenever state or federal
40 criminal history information is furnished by the Department of

1 Justice as the result of an application by an agency, organization,
2 or individual not defined in subdivision (k), (l), (m), (n), or (o), or
3 by a transportation company authorized pursuant to Section
4 11105.3, or any statute that incorporates the criteria of that section
5 or this subdivision by reference, and the information is to be used
6 for employment, licensing, or certification purposes.

7 (2) Notwithstanding any other provisions of law, whenever state
8 summary criminal history information is initially furnished
9 pursuant to paragraph (1), the Department of Justice shall
10 disseminate the following information:

11 (A) Every conviction rendered against the applicant.

12 (B) Every arrest for an offense for which the applicant is
13 presently awaiting trial, whether the applicant is incarcerated or
14 has been released on bail or on his or her own recognizance
15 pending trial.

16 (q) All agencies, organizations, or individuals defined in
17 subdivisions (k), (l), (m), (n), (o), and (p) may contract with the
18 Department of Justice for subsequent notification pursuant to
19 Section 11105.2. This subdivision shall not supersede sections that
20 mandate an agency, organization, or individual to contract with
21 the Department of Justice for subsequent notification pursuant to
22 Section 11105.2.

23 (r) Nothing in this section shall be construed to mean that the
24 Department of Justice shall cease compliance with any other
25 statutory notification requirements.

26 (s) The provisions of Section 50.12 of Title 28 of the Code of
27 Federal Regulations are to be followed in processing federal
28 criminal history information.

29 (t) Whenever state or federal summary criminal history
30 information is furnished by the Department of Justice as the result
31 of an application by an authorized agency, organization, or
32 individual defined in subdivisions (k) to (p), inclusive, and the
33 information is to be used for employment, licensing, or certification
34 purposes, the authorized agency, organization, or individual shall
35 expeditiously furnish a copy of the information to the person to
36 whom the information relates if the information is a basis for an
37 adverse employment, licensing, or certification decision. When
38 furnished other than in person, the copy shall be delivered to the
39 last contact information provided by the applicant.

1 *SECTION 1. Section 11105.07 is added to the Penal Code, to*
2 *read:*

3 *11105.07. (a) Subject to the requirements and conditions set*
4 *forth in Section 11105, the Attorney General may furnish state*
5 *summary criminal history information, as defined in Section 11105,*
6 *to an animal control officer, authorized to exercise powers*
7 *specified in Section 830.9, for the purpose of performing his or*
8 *her official duties, upon a showing of a compelling need, provided*
9 *that if information is furnished to assist the animal control officer*
10 *in fulfilling any employment, certification, or licensing duties,*
11 *Chapter 1321 of the Statutes of 1974 and Section 432.7 of the*
12 *Labor Code shall apply.*

13 *(b) The department shall respond to the animal control officer*
14 *with information as delineated in subdivision (p) of Section 11105*
15 *of the Penal Code. The department shall provide this information*
16 *to the animal control officer in a timely manner.*

17 *(c) An animal control officer who receives state summary*
18 *criminal history information pursuant to this section shall not use*
19 *that information for any purpose other than for the performance*
20 *of his or her official duties.*

21 *(d) An animal control officer authorized by law to receive state*
22 *summary criminal history information pursuant to this section*
23 *who knowingly furnishes the record or information to a person*
24 *who is not authorized by law to receive the record or information*
25 *is guilty of violating Section 11142.*

26 *SEC. 2. Section 13300 of the Penal Code is amended to read:*

27 *13300. (a) As used in this section:*

28 *(1) "Local summary criminal history information" means the*
29 *master record of information compiled by any local criminal justice*
30 *agency pursuant to Chapter 2 (commencing with Section 13100)*
31 *of Title 3 of Part 4 pertaining to the identification and criminal*
32 *history of any person, such as name, date of birth, physical*
33 *description, dates of arrests, arresting agencies and booking*
34 *numbers, charges, dispositions, and similar data about the person.*

35 *(2) "Local summary criminal history information" does not*
36 *refer to records and data compiled by criminal justice agencies*
37 *other than that local agency, nor does it refer to records of*
38 *complaints to or investigations conducted by, or records of*
39 *intelligence information or security procedures of, the local agency.*

40 *(3) "Local agency" means a local criminal justice agency.*

(b) A local agency shall furnish local summary criminal history information to any of the following, when needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) The courts of the state.

(2) Peace officers of the state, as defined in Section 830.1, subdivisions (a) and (d) of Section 830.2, subdivisions (a), (b), and (j) of Section 830.3, and subdivisions (a), (b), and (c) of Section 830.5.

(3) District attorneys of the state.

(4) Prosecuting city attorneys of any city within the state.

(5) City attorneys pursuing civil gang injunctions pursuant to Section 186.22a, or drug abatement actions pursuant to Section 3479 or 3480 of the Civil Code, or Section 11571 of the Health and Safety Code.

(6) Probation officers of the state.

(7) Parole officers of the state.

(8) A public defender or attorney of record when representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to Section 4852.08.

(9) A public defender or attorney of record when representing a person in a criminal case, or a parole, mandatory supervision, or postrelease community supervision revocation or revocation extension hearing, and when authorized access by statutory or decisional law.

(10) Any agency, officer, or official of the state when the local summary criminal history information is required to implement a statute, regulation, or ordinance that expressly refers to specific criminal conduct applicable to the subject person of the local summary criminal history information, and contains requirements or exclusions, or both, expressly based upon the specified criminal conduct.

(11) Any city, county, city and county, or district, or any officer or official thereof, when access is needed in order to assist the agency, officer, or official in fulfilling employment, certification, or licensing duties, and when the access is specifically authorized by the city council, board of supervisors, or governing board of

1 the city, county, or district when the local summary criminal history
2 information is required to implement a statute, regulation, or
3 ordinance that expressly refers to specific criminal conduct
4 applicable to the subject person of the local summary criminal
5 history information, and contains requirements or exclusions, or
6 both, expressly based upon the specified criminal conduct.

7 (12) The subject of the local summary criminal history
8 information.

9 (13) Any person or entity when access is expressly authorized
10 by statute when the local summary criminal history information
11 is required to implement a statute, regulation, or ordinance that
12 expressly refers to specific criminal conduct applicable to the
13 subject person of the local summary criminal history information,
14 and contains requirements or exclusions, or both, expressly based
15 upon the specified criminal conduct.

16 (14) Any managing or supervising correctional officer of a
17 county jail or other county correctional facility.

18 (15) Local child support agencies established by Section 17304
19 of the Family Code. When a local child support agency closes a
20 support enforcement case containing summary criminal history
21 information, the agency shall delete or purge from the file and
22 destroy any documents or information concerning or arising from
23 offenses for or of which the parent has been arrested, charged, or
24 convicted, other than for offenses related to the parents having
25 failed to provide support for the minor children, consistent with
26 Section 17531 of the Family Code.

27 (16) County child welfare agency personnel who have been
28 delegated the authority of county probation officers to access state
29 summary criminal information pursuant to Section 272 of the
30 Welfare and Institutions Code for the purposes specified in Section
31 16504.5 of the Welfare and Institutions Code.

32 (17) A humane officer appointed pursuant to Section 14502 of
33 the Corporations Code, for the purposes of performing his or her
34 duties. A local agency may charge a reasonable fee sufficient to
35 cover the costs of providing information pursuant to this paragraph.

36 (c) The local agency may furnish local summary criminal history
37 information, upon a showing of a compelling need, to any of the
38 following, provided that when information is furnished to assist
39 an agency, officer, or official of state or local government, a public
40 utility, or any entity, in fulfilling employment, certification, or

1 licensing duties, Chapter 1321 of the Statutes of 1974 and Section
2 432.7 of the Labor Code shall apply:

3 (1) Any public utility, as defined in Section 216 of the Public
4 Utilities Code, which operates a nuclear energy facility when access
5 is needed to assist in employing persons to work at the facility,
6 provided that, if the local agency supplies the information, it shall
7 furnish a copy of this information to the person to whom the
8 information relates.

9 (2) To a peace officer of the state other than those included in
10 subdivision (b).

11 (3) ~~An animal control officer employed by a city, county, or~~
12 ~~city and county, officer, authorized to exercise powers specified~~
13 ~~in Section 830.9, for the purposes of performing his or her official~~
14 ~~duties. A local agency may charge a reasonable fee sufficient to~~
15 ~~cover the costs of providing information pursuant to this paragraph.~~

16 (4) To a peace officer of another country.

17 (5) To public officers, other than peace officers, of the United
18 States, other states, or possessions or territories of the United
19 States, provided that access to records similar to local summary
20 criminal history information is expressly authorized by a statute
21 of the United States, other states, or possessions or territories of
22 the United States when this information is needed for the
23 performance of their official duties.

24 (6) To any person when disclosure is requested by a probation,
25 parole, or peace officer with the consent of the subject of the local
26 summary criminal history information and for purposes of
27 furthering the rehabilitation of the subject.

28 (7) The courts of the United States, other states, or territories
29 or possessions of the United States.

30 (8) Peace officers of the United States, other states, or territories
31 or possessions of the United States.

32 (9) To any individual who is the subject of the record requested
33 when needed in conjunction with an application to enter the United
34 States or any foreign nation.

35 (10) Any public utility, as defined in Section 216 of the Public
36 Utilities Code, when access is needed to assist in employing
37 persons who will be seeking entrance to private residences in the
38 course of their employment. The information provided shall be
39 limited to the record of convictions and any arrest for which the

1 person is released on bail or on his or her own recognizance
2 pending trial.

3 If the local agency supplies the information pursuant to this
4 paragraph, it shall furnish a copy of the information to the person
5 to whom the information relates.

6 Any information obtained from the local summary criminal
7 history is confidential and the receiving public utility shall not
8 disclose its contents, other than for the purpose for which it was
9 acquired. The local summary criminal history information in the
10 possession of the public utility and all copies made from it shall
11 be destroyed 30 days after employment is denied or granted,
12 including any appeal periods, except for those cases where an
13 employee or applicant is out on bail or on his or her own
14 recognizance pending trial, in which case the state summary
15 criminal history information and all copies shall be destroyed 30
16 days after the case is resolved, including any appeal periods.

17 A violation of any of the provisions of this paragraph is a
18 misdemeanor, and shall give the employee or applicant who is
19 injured by the violation a cause of action against the public utility
20 to recover damages proximately caused by the violation.

21 Nothing in this section shall be construed as imposing any duty
22 upon public utilities to request local summary criminal history
23 information on any current or prospective employee.

24 Seeking entrance to private residences in the course of
25 employment shall be deemed a “compelling need” as required to
26 be shown in this subdivision.

27 (11) Any city, county, city and county, or district, or any officer
28 or official thereof, if a written request is made to a local law
29 enforcement agency and the information is needed to assist in the
30 screening of a prospective concessionaire, and any affiliate or
31 associate thereof, as these terms are defined in subdivision (k) of
32 Section 432.7 of the Labor Code, for the purposes of consenting
33 to, or approving of, the prospective concessionaire’s application
34 for, or acquisition of, any beneficial interest in a concession, lease,
35 or other property interest.

36 Any local government’s request for local summary criminal
37 history information for purposes of screening a prospective
38 concessionaire and their affiliates or associates before approving
39 or denying an application for, or acquisition of, any beneficial
40 interest in a concession, lease, or other property interest is deemed

1 a “compelling need” as required by this subdivision. However,
2 only local summary criminal history information pertaining to
3 criminal convictions may be obtained pursuant to this paragraph.

4 Any information obtained from the local summary criminal
5 history is confidential and the receiving local government shall
6 not disclose its contents, other than for the purpose for which it
7 was acquired. The local summary criminal history information in
8 the possession of the local government and all copies made from
9 it shall be destroyed not more than 30 days after the local
10 government’s final decision to grant or deny consent to, or approval
11 of, the prospective concessionaire’s application for, or acquisition
12 of, a beneficial interest in a concession, lease, or other property
13 interest. Nothing in this section shall be construed as imposing
14 any duty upon a local government, or any officer or official thereof,
15 to request local summary criminal history information on any
16 current or prospective concessionaire or their affiliates or
17 associates.

18 (12) A public agency described in subdivision (b) of Section
19 15975 of the Government Code, for the purpose of oversight and
20 enforcement policies with respect to its contracted providers.

21 (d) Whenever an authorized request for local summary criminal
22 history information pertains to a person whose fingerprints are on
23 file with the local agency and the local agency has no criminal
24 history of that person, and the information is to be used for
25 employment, licensing, or certification purposes, the fingerprint
26 card accompanying the request for information, if any, may be
27 stamped “no criminal record” and returned to the person or entity
28 making the request.

29 (e) A local agency taking fingerprints of a person who is an
30 applicant for licensing, employment, or certification may charge
31 a fee to cover the cost of taking the fingerprints and processing
32 the required documents.

33 (f) Whenever local summary criminal history information
34 furnished pursuant to this section is to be used for employment,
35 licensing, or certification purposes, the local agency shall charge
36 the person or entity making the request a fee which it determines
37 to be sufficient to reimburse the local agency for the cost of
38 furnishing the information, provided that no fee shall be charged
39 to any public law enforcement agency for local summary criminal
40 history information furnished to assist it in employing, licensing,

1 or certifying a person who is applying for employment with the
2 agency as a peace officer or criminal investigator. Any state agency
3 required to pay a fee to the local agency for information received
4 under this section may charge the applicant a fee sufficient to
5 reimburse the agency for the expense.

6 (g) Whenever there is a conflict, the processing of criminal
7 fingerprints shall take priority over the processing of applicant
8 fingerprints.

9 (h) It is not a violation of this article to disseminate statistical
10 or research information obtained from a record, provided that the
11 identity of the subject of the record is not disclosed.

12 (i) It is not a violation of this article to include information
13 obtained from a record in (1) a transcript or record of a judicial or
14 administrative proceeding or (2) any other public record when the
15 inclusion of the information in the public record is authorized by
16 a court, statute, or decisional law.

17 (j) Notwithstanding any other law, a public prosecutor may, in
18 response to a written request made pursuant to Section 6253 of
19 the Government Code, provide information from a local summary
20 criminal history, if release of the information would enhance public
21 safety, the interest of justice, or the public's understanding of the
22 justice system and the person making the request declares that the
23 request is made for a scholarly or journalistic purpose. If a person
24 in a declaration required by this subdivision willfully states as true
25 any material fact that he or she knows to be false, he or she shall
26 be subject to a civil penalty not exceeding ten thousand dollars
27 (\$10,000). The requestor shall be informed in writing of this
28 penalty. An action to impose a civil penalty under this subdivision
29 may be brought by any public prosecutor and shall be enforced as
30 a civil judgment.

31 (k) Notwithstanding any other law, the Department of Justice
32 or any state or local law enforcement agency may require the
33 submission of fingerprints for the purpose of conducting summary
34 criminal history information record checks which are authorized
35 by law.

36 (l) Any local criminal justice agency may release, within five
37 years of the arrest, information concerning an arrest or detention
38 of a peace officer or applicant for a position as a peace officer, as
39 defined in Section 830, which did not result in conviction, and for
40 which the person did not complete a postarrest diversion program

1 or a deferred entry of judgment program, to a government agency
2 employer of that peace officer or applicant.

3 (m) Any local criminal justice agency may release information
4 concerning an arrest of a peace officer or applicant for a position
5 as a peace officer, as defined in Section 830, which did not result
6 in conviction but for which the person completed a postarrest
7 diversion program or a deferred entry of judgment program, or
8 information concerning a referral to and participation in any
9 postarrest diversion program or a deferred entry of judgment
10 program to a government agency employer of that peace officer
11 or applicant.

12 (n) Notwithstanding subdivision (l) or (m), a local criminal
13 justice agency shall not release information under the following
14 circumstances:

15 (1) Information concerning an arrest for which diversion or a
16 deferred entry of judgment program has been ordered without
17 attempting to determine whether diversion or a deferred entry of
18 judgment program has been successfully completed.

19 (2) Information concerning an arrest or detention followed by
20 a dismissal or release without attempting to determine whether the
21 individual was exonerated.

22 (3) Information concerning an arrest without a disposition
23 without attempting to determine whether diversion has been
24 successfully completed or the individual was exonerated.

25 ~~SEC. 3. No reimbursement is required by this act pursuant to~~
26 ~~Section 6 of Article XIII B of the California Constitution because~~
27 ~~a local agency or school district has the authority to levy service~~
28 ~~charges, fees, or assessments sufficient to pay for the program or~~
29 ~~level of service mandated by this act, within the meaning of Section~~
30 ~~17556 of the Government Code.~~

31 *SEC. 3. No reimbursement is required by this act pursuant to*
32 *Section 6 of Article XIII B of the California Constitution because*
33 *a local agency or school district has the authority to levy service*
34 *charges, fees, or assessments sufficient to pay for the program or*
35 *level of service mandated by this and because other costs that may*
36 *be incurred by a local agency or school district will be incurred*
37 *because this act creates a new crime or infraction, eliminates a*
38 *crime or infraction, or changes the penalty for a crime or*
39 *infraction, within the meaning of Section 17556 of the Government*

- 1 *Code, or changes the definition of a crime within the meaning of*
- 2 *Section 6 of Article XIII B of the California Constitution.*

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